

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

KENNETH R. MUSICK,

Petitioner,

v.

SCOTT NUNN,

Respondent.

)
)
)
)
)
)
)
)
)
)

Case No. CIV-22-69-SLP

ORDER


Before the Court is the Report and Recommendation of United States Magistrate Judge Amanda Maxfield Green entered on January 28, 2022 [Doc. No. 10]. No objection to the Report and Recommendation has been filed nor has an extension of time in which to object been sought or granted.

IT IS THEREFORE ORDERED that the Report and Recommendation [Doc. No. 9] is ADOPTED in its entirety and this action is DISMISSED WITHOUT PREJUDICE. A separate judgment of dismissal shall be entered contemporaneously with this Order.

IT IS FURTHER ORDERED that pursuant to Rule 11(a) of the Rules Governing Section 2254 Cases in the United States District Courts, the Court must issue or deny a certificate of appealability (“COA”) when it enters a final order adverse to a petitioner. A COA may issue only upon “a substantial showing of the denial of a constitutional right.” *See* 28 U.S.C. § 2253(c)(2). “A petitioner satisfies this standard by demonstrating that jurists of reason could disagree with the district court’s resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve

encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003). Upon consideration, the Court finds the requisite standard is not met in this case. Therefore, a COA is denied. This denial shall be included in the judgment.

IT IS SO ORDERED this 4th day of March, 2022.



SCOTT L. PALK
UNITED STATES DISTRICT JUDGE